

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

BUD LEE and CINDY LUNDMAN, as next friend )  
and as natural parents of PATRICK LEE, deceased, )

Plaintiffs, )

v. )

METROPOLITAN GOVERNMENT OF )  
NASHVILLE AND DAVIDSON COUNTY, )  
TENNESSEE, *et al.*, )

Defendants. )

Civil No. 3:06-0108  
Judge Trauger  
Magistrate Judge Griffin

**MEMORANDUM and ORDER**

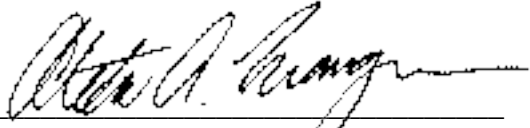
Defendants Mays, Scott, Wright, Pinkelton and Fisher have filed a Motion to Dismiss Count IX of the Amended Complaint (Docket No. 174), to which the plaintiffs have responded in opposition (Docket No. 184).

The plaintiffs are correct that, at a much earlier stage of this litigation, these defendants did move to dismiss several counts of the Amended Complaint, including Count IX. (Docket No. 79) This court, perhaps improvidently, denied that motion. (Docket No. 88) These same defendants have renewed that motion, based upon the court's analysis reflected in the Memorandum issued February 21, 2008 dismissing this count as to defendant Serpas on the ground that the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-310, provides immunity from suit for negligence claims, when the state actor is alleged to have been acting within the scope of employment. (Docket No. 168 at 17-18) The moving defendants are correct that all allegations against them in the Amended Complaint assert that these defendants were acting in the scope of their employment when doing the acts complained of. Therefore, these defendants are immune from claims of negligence under the Tennessee Governmental Liability Act.

For the reasons expressed herein, it is hereby **ORDERED** that the Motion to Dismiss filed by defendants Mays, Scott, Wright, Pinkelton and Fisher (Docket No. 174) is **GRANTED**, and the claims against these defendants asserted in Count IX of the Amended Complaint are **DISMISSED WITH PREJUDICE**.

It is so **ORDERED**.

ENTER this 4<sup>th</sup> day of April 2008.

  
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Aleta A. TRAUGER  
U.S. District Judge